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EXAMINER

GAUTHIER, GERALD

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,909	<b>Applicant(s)</b> RABIPOUR ET AL.	
	<b>Examiner</b> Gerald Gauthier	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 31-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of **claims 1-29 and 31-56** in the reply filed on April 17, 2008 is acknowledged.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1, 17, 18, 31, 47 and 48** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 28-38, 46 and 47** of U.S. Patent No. 7,006,456 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because "receiving a stream of composite packets from the first network element, each composite packet carrying

media information and auxiliary information pertaining to the composite packet, generating, on a basis of the media information and the auxiliary information carried in the composite packets, an output media stream free of the auxiliary information carried in the composite packets, releasing the output media stream towards the second network element” are patentably distinct from the US patent above.

**Claims 2-16, 18-29, 32-46 and 49-56** are rejected for being dependent of rejected claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-29, 31-34, 36-39, 41-50 and 52-56** are rejected under 35 U.S.C. 102(e) as being anticipated by Omoigui (US patent 7,149,359 B1).

Regarding **claim 1**, Omoigui discloses a method of processing data carried on a media path between a first network element and a second network element [column 1, lines 6-8], comprising:

receiving a stream of composite packets from the first network element, each composite packet carrying media information and auxiliary information pertaining to the composite packet [The individual media streams are received from demultiplexer 204 by respective decoders 222, 224, 226, 228, and 230 that perform in accordance with the particular data format being employed, column 4, lines 57-61 and column 7, line 65 to column 8, line 6];

generating, on a basis of the media information and the auxiliary information carried in the composite packets, an output media stream free of the auxiliary information carried in the composite packets [The client computer has a demultiplexer component 204 that receives the composite media stream and separates out the individual media streams from the composite format in which the data is streamed (such as ASF), column 7, lines 51-58];

releasing the output media stream towards the second network element [The decoded streams are then provided to and received by respective renderers 234, 236, 238, 240, and 242, column 8, lines 2-6].

Regarding **claims 2 and 19**, Omoigui discloses a method, wherein generating the output media stream comprises: removing the auxiliary information from each composite packet [column 7, lines 51-58].

Regarding **claims 3 and 20**, Omoigui discloses a method, wherein the media information carried in each composite packet comprises compressed media, wherein

generating the output media stream further comprises: converting into waveform data the compressed media carried in each composite packet [column 8, lines 34-50].

Regarding **claims 4, 8, 21 and 25**, Omoigui discloses a method, wherein the auxiliary information carried in each composite packet identifies an active speaker associated with the composite packet, wherein generating the output media stream comprises: determining from the auxiliary information carried in each composite packet an active speaker associated with the composite packet [column 6, lines 5-20];

generating an intermediate media stream for each of a plurality of active speakers from the media information carried in each of the composite packets associated with that active speaker [column 6, lines 5-20];

combining the intermediate media streams into the output media stream [column 6, lines 5-20].

Regarding **claims 5, 9, 22 and 26**, Omoigui discloses a method, wherein the media information carried in each composite packet comprises compressed media, wherein generating an intermediate media stream for a particular active speaker comprises: converting into waveform data the compressed media carried in each composite packet associated with the particular active speaker [column 8, lines 34-50].

Regarding **claims 6, 10, 23 and 27**, Omoigui discloses a method, wherein combining the intermediate media streams into the output media stream comprises:

adding the waveform data carried in the intermediate media streams to generate the output media stream carrying composite waveform data [column 8, lines 34-50].

Regarding **claims 7, 11, 24 and 28**, Omoigui discloses a method, the method further comprising: encoding into compressed media the composite waveform data carried in the output media stream [column 8, lines 34-50].

Regarding **claims 12 and 43**, Omoigui discloses a method, wherein the media is speech [column 9, lines 21-30].

Regarding **claims 13 and 44**, Omoigui discloses a method, wherein the media is audio [column 9, lines 21-30].

Regarding **claims 14 and 45**, Omoigui discloses a method, wherein the media is still imagery [column 12, lines 8-22].

Regarding **claims 15 and 46**, Omoigui discloses a method, wherein the media is video [[column 9, lines 31-41].

Regarding **claims 16 and 29**, Omoigui discloses a method, further comprising packetizing the output media stream at a data interface prior to releasing the output media stream towards the second network element [column 8, lines 2-6].

Regarding **claim 17**, Omoigui discloses all the limitations of claim 17 as stated in claim 1's rejection above.

Regarding **claim 18**, Omoigui discloses all the limitations of claim 18 as stated in claim 1's rejection above.

Furthermore Omoigui discloses a data interface [224 on FIG. 3] and a processing entity [204 on FIG. 3].

Regarding **claim 31**, Omoigui discloses all the limitations of claim 31 as stated in claim 1's rejection above.

Furthermore Omoigui discloses deriving from the media information carried in each received packet auxiliary information pertaining to the received packet [A streaming module 205 in server 100 manages the streaming of the composite media stream to client 104 based at least in part on the delivery times of the data units in the composite media stream, column7, lines 51-58].

Regarding **claim 32**, Omoigui discloses a method, wherein deriving from the media information in each received packet the auxiliary information pertaining to the received packet comprises: determining an identity of an end user device from which the received packet originates [column 8, lines 34-50].



Regarding **claims 33, 38, 49 and 53**, Omoigui discloses a method, wherein the media information carried in each received packet comprises compressed media, the method further comprising: producing each composite packet by associating to the compressed media carried in a respective received packet the auxiliary information pertaining to the respective received packet [column 8, lines 34-50].

Regarding **claims 34, 39, 50 and 54**, Omoigui discloses a method, wherein deriving from the media information in each received packet the auxiliary information pertaining to the received packet comprises: converting into waveform data the compressed media carried in the received packet; identifying at least one feature of the waveform data [column 8, lines 34-50].

Regarding **claims 36, 41, 52 and 56**, Omoigui discloses a method, wherein the at least one feature includes a signal power of the waveform data [column 8, lines 34-50].

Regarding **claims 37, 42 and 53**, Omoigui discloses a method, wherein deriving from the media information in each received packet the auxiliary information pertaining to the received packet comprises: determining an identity of an end user device from which the received packet originates [column 8, lines 34-50].

Regarding **claim 47**, Omoigui discloses all the limitations of claim 47 as stated in claim 31's rejection above.

Regarding **claim 48**, Omoigui discloses all the limitations of claim 48 as stated in claim 18's rejection above.

Furthermore Omoigui discloses a combiner [100 on FIG. 3].

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsui is cited for demultiplexing multiplexed data.

Putzolu et al. is cited for communication of dynamic dependencies along media streams.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/  
Primary Examiner, Art Unit 2614

GG  
July 3, 2008